5324

SUPREME COURT OF THE UNITED STATES.

No. 183.

CHARLES E. JENKINS, MOSES KNEELAND, AND JACKSON HADLEY, PLAINTIFFS IN ERROR,

vs.

WILLIAM S. BANNING.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF WISCONSIN.

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GIDEON, Print.

District Court of the United States of America, for the District of Wisconsin.

DISTRICT OF WISCONSIN.

At a stated term of the district court of the United States of America for the district of Wisconsin, begun and held according to law on the first Monday (being the fourth day) of January, in the year of our Lord one thousand eight hundred and fifty-eight, at the city of Milwaukie, in said district of Wisconsin: Present, the Honorable Andrew G. Miller, judge of said court, presiding; Major J. Thomas, marshal; John M. Miller, clerk.

Among other, the following proceedings were had, to wit:

WILLIAM L. BANNING
vs.
CHARLES E. JENKINS, MOSES KNEELAND, and JACKSON HADLEY. } No. 384.—Jan. Term, 1858.

Be it remembered, that heretofore, to wit, on the thirtieth day of December, A. D. 1857, came the said plaintiff, William L. Banning, by his attorneys, Messrs. Smith & Salomon, and filed his præcipe for a summons against the said defendants, Charles E. Jenkins, Moses Kneeland, and Jackson Hadley, as follows:

Præcipe for Summons.

U. S. District Court.

WILLIAM L. BANNING
vs.
CHARLES E. JENKINS, MOSES KNEELAND, and JACKSON HADLEY.

The clerk will issue a summons in a plea of debt.
Damages $6,000.

SMITH & SALOMON,
Att'ys for Pl'ff.

And same day filed their declaration, as follows:

Declaration.

Amendment.—Declaration.

District Court of the United States for the District of Wisconsin.—Of the January Term, 1858.

DISTRICT OF WISCONSIN, *ss.*

William L. Banning, a citizen of the State of Iowa, plaintiff in

this suit, by Smith & Salomon, his attorneys, complains of Moses Kneeland, Jackson Hadley, and Charles E. Jenkins, citizens of the State of Wisconsin, defendants in this suit, of a plea that they render to him the sum of five thousand and sixty-seven dollars and sixty-four cents, which they owe to and unjustly detain from him. For that whereas the said plaintiff heretofore, to wit, on the first day of December, eighteen hundred and fifty-seven, in the United States district court for the second judicial district and county of Ramsey, in the Territory of Minnesota, by the consideration and judgment of the said court, recovered against the said defendants the said sum of five thousand and sixty-seven dollars and sixty-four cents, above demanded; which in and by the said court were then and there adjudged to the said plaintiff for a certain debt due to him from the said defendants, with interest thereon, and for his costs and charges by him about his suit in that behalf expended, whereof the said defendants were convicted, as by the record and proceedings thereof remaining in the said court more fully appears; which judgment remains in full force and effect—not reversed, satisfied, or otherwise vacated; and the said plaintiff hath not obtained any execution or satisfaction of or upon the said judgment, whereby an action hath accrued to the said plaintiff, to demand and have of and from the said defendants the said sum of money above demanded. Nevertheless the said defendants, although often requested so to do, have not as yet paid the said sum of money so demanded, or any part thereof, to the said plaintiff; but have hitherto wholly neglected and refused, and still neglect and refuse so to do, to the damage of the said plaintiff of six thousand dollars; and therefore he brings suit, &c.

SMITH & SALOMON,
Att'ys for Pl'ffs.

And same day summons issued as follows:

Summons.

THE UNITED STATES OF AMERICA,
District of Wisconsin, ss.

The President of the United States of America to the Marshal of the District of Wisconsin, greeting:

[SEAL.]

You are hereby commanded to summon Charles E. Jenkins, Moses Kneeland, and Jackson Hadley to appear before the district court of the United States of America for the district of Wisconsin aforesaid, at Milwaukie, on the first Monday of January next ensuing, then and there to answer unto William L. Banning in a plea of debt to his damage six thousand dollars, which shall then and there be made to appear; and of this writ make due return.

Witness the Hon. Andrew G. Miller, judge of the said district court of the United States, at the city of Milwaukie, in said district of Wisconsin, this thirtieth day of December, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-second.

J. M. MILLER, *Clerk.*
SMITH & SALOMON,
Attorneys.

And afterwards, on or before the return day of said writ, came the said marshal, and returned said writ, with his return thereon, as follows:

Return.

Served on the within named Charles E. Jenkins, by showing him this summons, and delivering him a copy thereof, and served on Moses Kneeland and Jackson Hadley, by leaving a copy of this summons at each of their usual places of abode, they not being found, this 31st day of December, 1857.

M. J. THOMAS, *Marshal,*
By D. C. REED, *Deputy.*

And afterwards, to wit, on the *srith* day of January, A. D. 1858, came the said defendants, by their attorneys, Messrs. Palmer & Stark, and filed their demurrer, as follows:

Demurrer.

U. S. Dist. Court, Dist. of Wisconsin.—Of the first Monday in January, 1858.

CHARLES E. JENKINS, MOSES KNEELAND, and JACKSON HADLEY, ads.
WILLIAM L. BANNING.

And the said Charles E. Jenkins, Moses Kneeland, and Jackson Hadley, defendants in this suit, by Palmer & Stark, their attorneys, come and defend the wrong and injury, when, &c., and say that the said declaration, and the matters therein contained, in manner and form as the same are above stated and set forth, are not sufficient in law for the said plaintiff to have or maintain his aforesaid action thereof against the said defendants; and that they, the said defendants, are not bound by law to answer the same; and this they are ready to verify. Wherefore, for want of a sufficient declaration in this behalf, the said defendants pray judgment, and that the said plaintiff may be barred from having and maintaining his aforesaid action thereof against them, &c.

And the said defendants, according to the form of the statute in such case made and provided, states and shows to the court here

the following causes of demurrer to the said declaration—that is to say, for that it doth not appear in or by the said declaration of what term or on what day the said writ or process upon which the said declaration was founded was or is returnable; and also, for that the said declaration is not entitled of any day or term whatever; and also, for that the said declaration is in other respects uncertain, informal, and insufficient, &c.

PALMER & STARK,
Def'ts Att'ys.

I certify, that in my opinion the foregoing demurrer to the plaintiff's declaration in the above entitled cause is well founded.

Dated January 5th, 1858.

JOSHUA STARK,
Of Counsel for the Defendants.

And now, at this same term, to wit, (January term, 1858,) on the thirteenth day thereof, to wit, on the eighteenth day of January, A. D., 1858, the following proceedings were had, to wit:

WILLIAM L. BANNING
vs.
CHARLES E. JENKINS, MOSES KNEELAND, and JACKSON HADLEY. } At Law.

This day came the plaintiff, and by leave of the court amended his declaration. Whereupon it is ordered by the court that the demurrer of the defendants to the declaration be and hereby is overruled. And on the motion of the said plaintiff, it is ordered by the court that the default of the defendants be and is hereby entered, for their not pleading to the plaintiff's declaration herein filed, and that it be referred to the clerk to ascertain and report what sum the said plaintiff ought to recover for his damages in addition to the debt declared for. The clerk reported in writing that he assessed the damages at four hundred and four dollars and thirty-five cents, in addition to the debt declared for of five thousand and sixty-seven dollars and sixty-four cents, as follows:

Report of Clerk.

District Court of the United States of America, for the District of Wisconsin.

WILLIAM L. BANNING
vs.
CHARLES E. JENKINS, MOSES KNEELAND, and JACKSON HADLEY. } No. 384, January Term, 1858.

I, John M. Miller, clerk of the district court of the United States of America for the district of Wisconsin, do hereby report, that in

pursuance of an order of this court, refering to me to ascertain and report the amount due the plaintiff, I have assessed the damages to the plaintiff at the sum of four hundred and four dollars and thirty-five cents, in addition to the debt declared for of five thousand sixty-seven dollars and *and* sixty-four cents, making in the whole the sum of five thousand four hundred and seventy-one dollars and ninety-nine cents.

J. M. MILLER,
Clerk.

Debt	$5,067 64
Damages	404 35
Total	$5,471 00

Dated January 18th, 1858.

And there was a record of a judgment from Minnesota filed in said cause, as follows:

Record from Minnesota.

UNITED STATES OF AMERICA,
Territory of Minnesota.

[SEAL.]

To all to whom these presents shall come, greeting:

Know ye, that we, having inspected the records and files of the United States district court for the second judicial district and county of Ramsey, in the Territory of Minnesota, do find there, remaining on file and of record, a certain judgment-roll in a cause wherein William L. Banning is plaintiff and Charles E. Jenkins, Moses Kneeland and J. Hadley are defendants, in the words and figures following, to wit:

District Court, 2d dist., Minn. Terr'y, Ramsey County.

Summons for money demanded on contract for payment of money.

WILLIAM L. BANNING
against
CHARLES E. JENKINS, MOSES KNEELAND, J. HADLEY.

To Charles E. Jenkins, Moses Kneeland, and J. Hadley, above-named defendants:

You are hereby summoned and required to answer the complaint in this action, which has been filed in the office of the clerk of this court for the county aforesaid, at St. Paul, in said Ramsey county, and to serve a copy of your answer to the said complaint on the subscriber at his office, in St. Paul, in said Ramsey county, within twenty days after the service of this summons on you, exclusive of

the day of such service; and if you fail to answer the said complaint within the time aforesaid, the plaintiff in this action will take judgment against you for the sum of five thousand and three dollars and fifty ($5003 50,) with interest from the third day of October, one thousand eight hundred and fifty-seven, besides the costs of this action. Dated November 10th, 1857.

HENRY J. HORN,
Plaintiffs' Attorneys.

2,451.—Dist. Court, 2d dist., Ramsey County.

WM. L. BANNING
vs.
CHARLES E. JENKINS et al.

Summons filed Dec. 1, 1857.

G. W. PRESCOTT, *Clerk.*
H. J. HORN,
Att'ys for Pl'ffs.

RAMSEY COUNTY, *ss.*

I hereby certify and return, that on this 10th day of November, A. D. 1857, at St. Paul, I served the within summons upon the defendants personally, by giving to each of them a certified copy of the same.

A. W. TULLIS, *Sh'ff.*
By H. B. PEARSON, *Deputy.*

St. Paul, Nov. 10, 1857.
Fees $5 10.

In the District Court of the 2d judicial district of the Territory of Minnesota.

RAMSEY COUNTY, *ss.*

WILLIAM L. BANNING
against
CHARLES E. JENKINS, MOSES KNEELAND, and J. HADLEY

The complaintof the above named plaintiff against the above named defendants in this action respectfully shows this court, and states, that heretofore, to wit, at Ramsey county aforesaid, on the third day of July, 1857, the said defendants made their promissory note in writing, dated the day and year last aforesaid, whereby they promised to pay to the order of Edmund Rice the sum of five thousand dollars, ninety days after the date thereof, at the banking house of Truman M. Smith, for value received; and then and there delivered the said note to the said Edmund Rice. That the said Edmund Rice endorsed the said note, and then and there

delivered the same to A. M. Fridley, who endorsed the said note, and before the same became due delivered the same to the said plaintiff; that the said plaintiff is now the lawful holder and owner of said note. The said complaint further shows and states, that the said note was duly presented on the day the same became due, at the place where the same was made payable, and payment thereof duly demanded, which was refused; whereupon the said note was duly protested for non-payment; and that the plaintiff has expended for protesting of said note the sum of three dollars and fifty cents. That the said note has not been paid, or any part thereof; but that the said defendants remain justly indebted to the said plaintiffs in the sum of five thousand and three dollars and fifty cents, with interest thereon from the third day of October, A. D. 1857.

Wherefore the said plaintiff demands judgment against the said defendants in the sum of five thousand and three dollars and fifty cents, with interest from the date last aforesaid, besides the costs of this action.

St. Paul, Nov. 10, '57.

HENRY J. HORN,
Att'y for Pl'ff.

TERRITORY OF MINNESOTA,
Ramsey County, ss.

William L. Banning, of Ramsey county, being duly sworn, says, that he is the plaintiff above named in this action; that the foregoing complaint is true of his own knowledge, except as to matters therein stated on his information or belief, and as to those matters that he believes it to be true.

W. L. BANNING.

Sworn to and subscribed before me, this tenth day of November, 1857.

G. THOS. MAY,
Notary Public, M. T.

Filed Nov. 10, 1857.

GEORGE W. PRESCOTT, *Clerk.*

In the District Court of the 2d judicial district of the Territory of Minnesota.

WILLIAM L. BANNING
against
CHARLES E. JENKINS, MOSES KNEELAND, and J. HADLEY.

RAMSEY COUNTY, *ss.*

Henry J. Horn, of said Ramsey county, being duly sworn, says,

the day of such service; and if you fail to answer the said complaint within the time aforesaid, the plaintiff in this action will take judgment against you for the sum of five thousand and three dollars and fifty ($5003 50,) with interest from the third day of October, one thousand eight hundred and fifty-seven, besides the costs of this action. Dated November 10th, 1857.

HENRY J. HORN,
Plaintiffs' Attorneys.

2,451.—Dist. Court, 2d dist., Ramsey County.

WM. L. BANNING
vs.
CHARLES E. JENKINS et al.

Summons filed Dec. 1, 1857.

G. W. PRESCOTT, *Clerk.*
H. J. HORN,
Att'ys for Pl'ffs.

RAMSEY COUNTY, *ss.*

I hereby certify and return, that on this 10th day of November, A. D. 1857, at St. Paul, I served the within summons upon the defendants personally, by giving to each of them a certified copy of the same.

A. W. TULLIS, *Sh'ff.*
By H. B. PEARSON, *Deputy.*

St. Paul, Nov. 10, 1857.
Fees $5 10.

In the District Court of the 2d judicial district of the Territory of Minnesota.

RAMSEY COUNTY, *ss.*

WILLIAM L. BANNING
against
CHARLES E. JENKINS, MOSES KNEELAND, and J. HADLEY

The complaintof the above named plaintiff against the above named defendants in this action respectfully shows this court, and states, that heretofore, to wit, at Ramsey county aforesaid, on the third day of July, 1857, the said defendants made their promissory note in writing, dated the day and year last aforesaid, whereby they promised to pay to the order of Edmund Rice the sum of five thousand dollars, ninety days after the date thereof, at the banking house of Truman M. Smith, for value received; and then and there delivered the said note to the said Edmund Rice. That the said Edmund Rice endorsed the said note, and then and there

delivered the same to A. M. Fridley, who endorsed the said note, and before the same became due delivered the same to the said plaintiff; that the said plaintiff is now the lawful holder and owner of said note. The said complaint further shows and states, that the said note was duly presented on the day the same became due, at the place where the same was made payable, and payment thereof duly demanded, which was refused; whereupon the said note was duly protested for non-payment; and that the plaintiff has expended for protesting of said note the sum of three dollars and fifty cents. That the said note has not been paid, or any part thereof; but that the said defendants remain justly indebted to the said plaintiffs in the sum of five thousand and three dollars and fifty cents, with interest thereon from the third day of October, A. D. 1857.

Wherefore the said plaintiff demands judgment against the said defendants in the sum of five thousand and three dollars and fifty cents, with interest from the date last aforesaid, besides the costs of this action.

St. Paul, Nov. 10, '57.

HENRY J. HORN,
Att'y for Pl'ff.

TERRITORY OF MINNESOTA,
Ramsey County, ss.

William L. Banning, of Ramsey county, being duly sworn, says, that he is the plaintiff above named in this action; that the foregoing complaint is true of his own knowledge, except as to matters therein stated on his information or belief, and as to those matters that he believes it to be true.

W. L. BANNING.

Sworn to and subscribed before me, this tenth day of November, 1857.

G. THOS. MAY,
Notary Public, M. T.

Filed Nov. 10, 1857.

GEORGE W. PRESCOTT, *Clerk.*

In the District Court of the 2d judicial district of the Territory of Minnesota.

WILLIAM L. BANNING
against
CHARLES E. JENKINS, MOSES KNEELAND, and J. HADLEY.

RAMSEY COUNTY, *ss.*

Henry J. Horn, of said Ramsey county, being duly sworn, says,

that he has not received any answer, demurrer, or copy thereof, to the complaint of the said plaintiff in this action, from the said defendants or any of them, and that he verily believes none has been served.

HENRY J. HORN.

Sworn to and subscribed before me, this first day of December, 1857.

J. J. McCULLOUGH,
Dep'ty Clerk Dist. Court.

Filed Dec. 1, 1857.

GEO. W. PRESCOTT, *Clerk.*

In the District Court of the 2d judicial district of the Territory of Minnesota.

RAMSEY COUNTY, *ss.*

WILLIAM L. BANNING
against
CHARLES E. JENKINS, MOSES KNEELAND, J. HADLEY.

Statement for Judgment.

Debt claimed in summons		$5,003 50
Interest from Oct. 31, '57		46 69
		5,050 19
Costs by statute	$7 00	
Sheriff's fees	5 10	
Clerk's "	4 60	
Disbursements—		
Affidavit to complaint	25	
" no answer	25	
" to disburs't	25	
		17 45
		$5,067 64

RAMSEY COUNTY, *ss.*

Henry J. Horn, of said county, being duly sworn, says that he is the attorney of the plaintiff in this action; that the foregoing items of disbursements are correct, and have justly been incurred in said suit.

HENRY J. HORN.

Sworn to and subscribed before me, this 1st Dec., 1857.

J. J. McCULLOUGH,
Dep'y Clerk, Dist. Court.

I hereby tax costs in this cause against defendants, as per foregoing bill, at $17 45, this 1st day of December, A. D. 1857.

GEORGE W. PRESCOTT, *Clerk.*

Filed Dec. 1, 1857.

G. W. PRESCOTT, *Clerk.*

2,451.—District Court, 2d district, county of Ramsey.

WILLIAM L. BANNING
against
CHARLES E. JENKINS, MOSES KNEELAND, and J. HADLEY.

The summons in this cause having been served upon each of the defendants herein, on the 10th day of November, A. D. 1857, and no answer to the complaint on file having been served upon the plaintiffs' attorneys, as required by said summons, now, on motion of Henry J. Horn, said attorney, it is hereby adjudged that the plaintiffs herein recover of said defendants the sum of five thousand fifty dollars and nineteen cents damages, and seventeen dollars and forty-five cents costs, amounting to $5,067 64.

Dated Dec. 1, 1857.

GEO. W. PRESCOTT, *Clerk.*

Principal demanded		$5,003 50
Interest "		46 39
		$5,050 19
Costs by statute	7 00	
Sheriff's fees	5 10	
Clerk's fees	4 60	
3 affidavits	75	
		17 45
		$5,067 64

Judgment-roll. Filed Dec. 1, 1857.

GEO. W. PRESCOTT, *Clerk.*

All of which we have caused by these presents to be exemplified, according to the act of Congress, and the seal of the district court aforesaid to be hereunto affixed.

Witness Hon. R. R. Nelson, judge of said district court, at St. Paul, in said county of Ramsey, this 17th day of December, A. D. 1857.

GEORGE W. PRESCOTT, *Clerk.*

District Court, 2d district, County of Ramsey.

WILLIAM L. BANNING
against
CHARLES E. JENKINS, MOSES KNEELAND and J. HADLEY.

By the Honorable R. R. Nelson, judge of the district court above entitled, it is hereby certified that George W. Prescott, whose name is subscribed to the foregoing exemplification in the above entitled cause, is the clerk of said district court for said second district, and the attestation thereof is in due form. Given under my hand, at chambers, in the city of St. Paul and county of Ramsey aforesaid, this 17th day of December, A. D. 1857.

R. R. NELSON,
Judge 2d district.

TERRITORY OF MINNESOTA,
County of Ramsey, ss.

[SEAL.]

I, George W. Prescott, clerk of the United States district court for the second judicial district of Ramsey and Territory of Minnesota, certify that R. R. Nelson, whose genuine signature is subscribed to the annexed certificate, was at the date thereof and now is the judge of said district court, duly commissioned and qualified, and that all his official acts are entitled to full faith and credit.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Saint Paul, in said county, this 17th day of December, A. D. 1857.

GEO. W. PRESCOTT, *Clerk.*

Judgment.

Whereupon, it is considered and adjudged by this court now here, that the said plaintiff do have and recover of the said defendants, Charles E. Jenkins, Moses Kneeland and Jackson Hadley, the said sum of four hundred and four dollars and thirty-five cents damages, in addition to the debt declared for of five thousand sixty-seven dollars and sixty-four cents, making in the whole the sum of five thousand four hundred and seventy-one dollars and ninety-nine cents, together with twenty-six dollars and thirty-two cents, his costs about his said suit in this behalf by him expended; and that he have execution therefor. Judgment roll signed January 18, 1858.

J. M. MILLER, *Clerk.*

Debt and damages.....	$5,471 99
Costs.....	26 32
	$5,498 31

And afterwards, to wit, on the twenty-ninth day of January, A. D. 1858, came the defendants, Moses Kneeland and Jackson Hadley, and filed their bond in the penalty of ten thousand dollars, to prosecute a writ of error, as follows:

Supreme Court of the United States.

CHARLES E. JENKINS, MOSES KNEELAND and JACKSON HADLEY, Plaintiffs in Error, vs. WILLIAM L. BANNING, Def'nt in Error. } In Error.

Know all men by these presents, that we, Moses Kneeland and Jackson Hadley, as principals, and Samuel C. West and Otis B. Hopkins, as sureties, all of the city and county of Milwaukie, and State of Wisconsin, are held and firmly bound unto the above named William L. Banning in the sum of ten thousand dollars, to be paid to the said William L. Banning, his executors, administrators or assigns: to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, administrators, firmly by these presents. Sealed with our seals, and dated the 29th day of January, eighteen hundred and fifty-eight.

Whereas the above named Charles E. Jenkins, Moses Kneeland, and Jackson Hadley have prosecuted a writ of error to the Supreme Court of the United States, to recover the judgment rendered in the above entitled cause by the district court of the United States, for the district of Wisconsin, on the eighteenth day of January, 1858, now therefore, the condition of this obligation is such, that if the above named Charles E. Jenkins, Moses Kneeland, and Jackson Hadley shall prosecute their said writ of error to effect, and answer all damages and costs if they shall fail to make good their plea, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

MOSES KNEELAND, [SEAL.]
J. HADLEY, [SEAL.]
S. C. WEST, [SEAL.]
OTIS B. HOPKINS, [SEAL.]

Sealed and delivered in presence of—

DISTRICT OF WISCONSIN, *ss.*

Samuel C. West and Otis B. Hopkins, being sworn, doth say, each for himself, that he is the owner of property and estate within the State of Wisconsin, of the value of ten thousand dollars, over and above his debts and property, exempt from execution.

S. C. WEST,
OTIS B. HOPKINS.

Sworn and subscribed, this 29th day of January, 1858.
A. G. MILLER, *Judge.*

Jan. 29, 1858. Bond approved.

A. G. MILLER, *Judge.*

UNITED STATES OF AMERICA,
District of Wisconsin, ss.

I, John M. Miller, clerk of the district court of the United States of America for the district of Wisconsin, do hereby certify that I have compared the writings annexed to this certificate, and they are true copies of their respective originals, now on file and remaining of record in my office, being a full and complete exemplification of the record and proceedings in the suit of William L. Banning against Charles E. Jenkins, Moses Kneeland, and Jackson Hadley.

In testimony whereof I have hereunto set my hand and duly affixed the seal of the said court, at the city of Milwaukie, in the said district of Wisconsin, this second day of
[SEAL.] October, in the year of our Lord one thousand eight hundred and fifty-eight, and of the independence of the said United States the eighty-third.

J. M. MILLER, *Clerk.*

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America to the judge of the District Court of the United States of America, for the district of Wisconsin, greeting:

[SEAL.]

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said district court of the United States of America for the district of Wisconsin, before you, between William L. Banning, plaintiff, and Charles E. Jenkins, Moses Kneeland and Jackson Hadley, defendants, a manifest error hath happened, to the great damage of the said Charles E. Jenkins, Moses Kneeland and Jackson Hadley, as by the complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to law and custom of the United States should be done.

Witness the Honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this twenty-ninth day of

January, in the year of our Lord one thousand eight hundred and fifty-eight, and of the independence of the United States the eighty-second.

J. M. MILLER, *Clerk.*

United States of America to William L. Banning, greeting:

[SEAL.]

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the district court of the United States for the district of Wisconsin, wherein Charles E. Jenkins, Moses Kneeland, and Jackson Hadley are plaintiffs in error, and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this twenty-ninth day of January, in the year of our Lord one thousand eight hundred and fifty-eight, and of our independence the eighty-second.

A. G. MILLER,
Judge of the District Court of the U. S.,
for the district of Wisconsin.

Served on the within named William L. Banning, by delivering a copy of this citation to Winfield Smith, of the firm of Smith & Salomon, his attorneys, in person, this sixth day of February, 1858.

W. J. THOMAS, *Marshal.*

Sworn to before me, February 25th, 1858.

J. M. MILLER, *Clerk.*

Filed 27 Dec'r, 1858.